

REMARKS

Claims 1-4 and 6-10 are pending in the Application.

Claims 1-4 and 6-10 stand rejected.

I. DOUBLE PATENTING REJECTION

Claims 1, 4 and 8 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 18 (and claim 3) of co-pending Application No. 09/931,550. In response, Applicants respectfully traverse this rejection. However, since the co-pending application is merely pending, Applicants will address this double patenting rejection when either such co-pending application issues or claims 1, 4 and 8 are allowed in this application.

II. REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-4 and 6-10 stand rejected under 35 U.S.C. § 103 as being unpatentable over *Alexander* (U.S. Patent No. 6,188,602), in view of *Grawrock* (U.S. Patent No. 6,678,833). In response, Applicants respectfully traverse these rejections.

The claims recite that a TPM performs a signature verification of an update to a program, such as a BIOS image recited in certain claims. If this signature verification is successful, then the TPM unlocks a memory unit to store the program.

In Applicants' previous response, Applicants argued, and Examiner has not apparently disagreed, that *Grawrock* does not teach a TPM performing a signature verification of an update to the program. *Grawrock* stores the updated program and then performs a TPM verification.

In response, the Examiner has replied that *Alexander* was actually relied upon by the Examiner to address such claim limitations. However, *Alexander* does not teach what the Examiner asserts. Referring to Fig. 3A of *Alexander*, *Alexander* teaches that the flash memory 212 enters state 330 where flash memory 212 in firmware hub 110 is reset to read/write access. Column 5, lines 32-34. Flash

memory 212 then enters state 332 to check whether there is a valid RBU image to update BIOS 142. Column 5, lines 34-36. If a valid RBU image exists, flash memory 212 enters state 338 where BIOS 142 updates firmware hub 110 with a new BIOS image and then enters state 302 to load the new image by resetting computer system 100. Column 5, lines 41-45.

In state 330, the flash memory is reset to a read/write access. This is the same as unlocking the flash memory. The Examiner is respectfully requested to refer to the attached Declaration by Steve Goodman, who is attesting to such an assertion. Thereafter, in state 332, then *Alexander* checks whether the RBU image is valid. This is opposite of what the Examiner is asserting.

As a result, both *Alexander* and *Grawrock* both specifically teach that the flash memory is unlocked before the program is updated. Thus, the combination of *Alexander* and *Grawrock* would install an update to the program, and thereafter verify the program. This is the opposite of what is recited in the claims.

As a result, the combination of *Alexander* and *Grawrock* teaches away from the present invention. As a result, the Examiner has failed to prove a *prima facie* case of obviousness in rejecting the claims.

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